

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
MICHAEL RAY,

Plaintiff,

No. 19 CV 6546-LTS-DCF

-against-

UNITED STATES POSTAL SERVICE,

Defendant.
-----X

ORDER

The Court has received and reviewed Plaintiff's Second Motion for Default Judgment and the submissions in support of that motion. (Docket Entry Nos. 24-26.) In an Order dated March 13, 2020 (Docket Entry No. 19), the Court denied Plaintiff's initial Motion for Default Judgment, without prejudice, for failure to comply with Federal Rule of Civil Procedure 4(i), which requires that "in suits against federal agencies," such as Defendant United States Postal Service, "'a party must serve the United States [by delivering a copy of the summons and complaint both to the United States attorney for the district where the action is brought and to the Attorney General of the United States] and also send a copy of the summons and of the complaint by registered or certified mail to the agency.'" Chin v. United States Postal Service, No. 08-CV-1035 (FB) (CLP), 2009 WL 1702255, at *1 (E.D.N.Y. June 16, 2009). Accord Point-Dujour v. U.S. Postal Serv., No. 02-CV-6840 (JCF), 2003 WL 1745290, at *2 (S.D.N.Y. Mar. 31, 2003) (quoting Fed. R. Civ. P. 4(i)) ("When a party sues either a federal agency or a federal employee acting within the scope of his employment, proper service involves (1) 'delivering a copy of the summons and of the complaint to the United States attorney for the district in which the action is brought,' and (2) 'sending a copy of the summons and of the complaint by registered or certified mail to the Attorney General of the United States.'"); Shore v. Henderson, 168 F. Supp. 2d 428,

431 (E.D. Pa. 2001) (“To properly serve the United States Postal Service and the Postmaster General in his official capacity, the Plaintiff must deliver a copy of the summons and the complaint to (1) the United States attorney pursuant to Rule 4(i)(1)(A), (2) ‘the Attorney General of the United States,’ and (3) both Defendants.”).

Plaintiff submits evidence of having served the summons and complaint upon David Burroughs, a “Mail Room Manager” in Washington, D.C. (Docket Entry No. 26-2 at ECF p. 2), and on “‘John Doe,’ Refused Name as Authorized to Accept” for Defendant in New York, New York. (Id. at ECF p. 1.) Therefore, Plaintiff has again failed to submit evidence of having effected proper service upon Defendant under Federal Rule of Civil Procedure 4(i), and the Court denies Plaintiff’s Second Motion for Default Judgment.

Pursuant to Federal Rule of Civil Procedure 4(m), the Court further orders that Plaintiff shall, by **October 30, 2020**, either (1) effect proper service of the summons and complaint upon Defendant, and file proof of such service, or (2) show cause why this case should not be dismissed, without prejudice, for failure to effect such service within 90 days of filing the complaint.

This Order resolves Docket Entry No. 24.

SO ORDERED.

Dated: New York, New York
October 7, 2020

/s/ Laura Taylor Swain
LAURA TAYLOR SWAIN
United States District Judge